

DEFINITIONS

Applicant: an individual who is tentatively selected for a position. The term includes current employees who are (1) transferring, demoting, or promoting from one classification to another within the same state agency and/or (2) transferring, demoting, or promoting from one position to another in different state agencies.

Arrest: The taking of a person into custody, that s/he may be held to answer for a criminal charge. Arrest(s) noted on criminal history checks may be considered only if the charge(s) are still pending at the time of the employment decision.

Background Checks refers to all of the following checks: Employment verification, Educational verification, License verification, Tax payment check, Reference check, Past employment check, Criminal history check, Sex Offender Registry check, Court records check, Motor vehicle check, Credit history check, National criminal history database check, and use of the federal eVerify program.

Conviction: A judgment on a verdict or a plea of guilty or *nolo contendere*, and/or a finding of guilt substantiated by the evidence which results in the payment of fines, forfeiture of collateral or bond, restitution, deferred adjudication or sentencing, probation, confinement, suspended sentence, pre-trial diversion agreement, or any other penalty imposed by a court of law or agreed upon by the accused for a crime.

Court records check: checking civil and criminal court records in jurisdictions where the applicant has lived or worked to determine any criminal history or civil judgments.

Credit history: CAVEAT: Credit history check may be used only where there is a business necessity. The Fair Credit Reporting Act (FCRA) requires a separate written notice and authorization before a report from a consumer reporting agency can be procured. If the employer proposes to deny employment or otherwise adversely affect an employee based on any information contained in a consumer report, the employer must make adverse action disclosures, which include two steps:

1. Before the adverse action is taken to not employ, the person must be provided a "Pre-Adverse Action Disclosure Statement" which includes:
 - a. A copy of the credit report, and
 - b. "Summary of your rights under the FCRA".
2. After taking adverse action, the person must be provided an "Adverse Action Notice", which includes:
 - a. Name, address, and phone number of the Consumer Reporting Agency (CRA) supplying the report.
 - b. A statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the specific reasons why the adverse action was taken.
 - c. Notice that the person may dispute (with the consumer reporting agency) the accuracy or completeness of the information, and a right to an additional free credit report within sixty (60) days.

An employer may not discriminate against an applicant or employee because of bankruptcy nor can an employee be discharged for garnishment proceedings.

| See forms attached to this policy or at <http://www.in.gov/spd/2599.htm>.

Crime : A felony or misdemeanor for which a person might be imprisoned.

Educational verification: telephone contact or written verification to ensure that the applicant possesses all educational credentials on application/resume.

Employment verification: ensuring that the applicant actually worked

1. all positions listed on the application/resume that qualify the individual for the position sought; and
2. all employment during a period of at least seven (7) years immediately preceding application.

Verification should include dates of employment, reasons for leaving, and an explanation for any periods of unemployment.

eVerify program: the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s. 403(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly-hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).

Federal Criminal History Records Information (CHRI) check: a nationwide criminal history database, access to which is limited by federal and state statutes. Under current law, applicants may obtain information on themselves from this data source. Criminal justice agencies and gaming and horse racing regulators have access to this information for employment purposes. Employees or volunteers who have contact with children are also eligible for these nationwide checks. See procedure attached to this policy. See also IC 10-13-3.

Fingerprint Check: see Federal Criminal History Records Information (CHRI) check.

License verification: confirmation that the applicant possesses all the licenses on application/resume or otherwise necessary for position and determining the disposition of any proceedings against the license.

Motor vehicle check: BMV makes driving record information available online through in.gov to determine an applicant's driving record and status.

NEFR: the code used in PeopleSoft data entry meaning a person is Not Eligible For Rehire. This code can only be used when the person is disqualified from employment for reason(s) specified in the law or by an order of the Ethics Commission.

Reference check: contacting the references provided by the applicant.

Past employment check: interviews with the applicant's past supervisors.

Sex Offender Registry: Pursuant to IC 36-2-13-5.5 the Indiana Sex and Violent Offender Directory database, which is accessible on the Internet through www.in.gov, contains information on persons convicted of certain sex and violent crimes. See also IC 11-8-8 et seq.

State Criminal history check: The most basic check on arrest(s) or criminal conviction(s) is the state criminal history check provided by the Indiana State Police. This check is limited to Indiana criminal history and can only discover the data that has been provided by local law enforcement agencies. It is available online . For especially sensitive positions, agencies may check court records in every jurisdiction where the applicant has lived, worked, or attended school. State agencies may also require applicants to secure and provide their state criminal history checks. Arrest(s) may be considered only if the charge(s) are still pending.

Tax payment check: The Indiana Department of Revenue will provide information to state agencies as to whether an applicant is current in payment of state taxes.

RESPONSIBILITIES

Applicants are responsible for:

- submitting an accurate, complete Release of Information form to the appropriate authority in a timely manner, and
- providing appropriate documentation and information necessary to complete any required background checks.

Hiring Managers are responsible for:

- submitting to the appropriate authority information about the position being filled so the appropriate background checks can be performed;
- doing reference checks; and
- updating the Hiring Manager portions of eRecruit in a timely and accurate manner for all hiring events.

HR staff are responsible for:

- ensuring that PeopleSoft® records are accurate and the code NEFR is used only for reasons provided by law (e.g. IC 4-15-2.2-30) or by an order of the Ethics Commission;
- conducting fingerprint checks for appropriate positions;
- using the eVerify program to verify the work eligibility status of all employees of the state agency hired after June 30, 2011; and
- maintaining records of background check results in a secure and appropriate manner and in accordance with applicable records retention schedule(s).

State Personnel Department is responsible for:

- performing, or contracting the performance of, required background checks on all Executive Level positions.

PROCEDURES

1. Agencies must have a written policy specifying the level of background check for each type of position to be filled. Those policies must include the following elements as appropriate for each agency:
 - a. All persons appointed to state positions shall have verified:
 - (1) All work experience listed on application/resume that qualify the individual for the position sought,

- (2) All employment during a period of at least seven (7) years immediately preceding the date of application,
 - (3) All academic diplomas and degrees, and
 - (4) Any required licensure
 - b. All persons accepting conditional offers of employment for positions working directly with vulnerable populations shall be subject to the highest level of criminal history check available under the law, utilizing the federal and state Criminal History Records Information (CHRI) system. Positions falling into this category include, but are not limited to, direct care workers in state-operated facilities for children and/or vulnerable adult populations under Family & Social Services Administration, Department of Veterans Affairs, Indiana School for the Deaf, and Indiana School for the Blind/Visually Impaired as well as those working with juveniles such as family case managers in the Department of Child Services, and employees in juvenile facilities operated by the Department of Correction. All of these persons should be subject to the CHRI check, past employment, Sex and Violent Offender Registry, and any other checks the agency determines are appropriate. IC 12-24-3-2 lists convictions that disqualify a person from working in a state institution and IC 4-13-2-14.7 lists convictions that disqualify a person from working around children.
 - c. All persons accepting conditional offers of employment for positions that authorize disbursements shall be subject to additional background checks commensurate with their responsibilities such as criminal history checks.
 - d. All persons accepting conditional offers of employment for Agency Head positions shall be subject to the following checks, which will be performed by State Personnel Department or designee: (1) state criminal history check for employment purposes; (2) credit checks; (3) licensure checks; (4) verification of state tax payment; (5) motor vehicle record check; (6) Sex Offender Registry check. Each agency must review its policy to determine which of the above-defined checks are appropriate for other levels of management based on each manager's responsibilities.
2. The Department of Administration requires assurances in its QPA for temporary personnel that the backgrounds of those temporary personnel do not reveal relevant past criminality or dishonesty. Agencies should restrict temporary personnel's access to sensitive information commensurate with the assurances provided on the QPA. In addition, agencies should not utilize the services of contractual personnel who do not satisfy the agency's criteria for employment.

REFERENCES

IC 4-13-2-14.7
IC 4-15-2.2-15
IC 4-15-2.2-30
IC 12-24-3-2
IC 36-2-13-5.5
IC 11-8-8
IC 10-13-3
IC 22-5-1.7
31 IAC 5-2-1

Commercial Driver's License Policy
Arrests & Convictions Policy/R&P

FORMS

Applicant Disclosure and Release
Applicant Background Record Checklist